

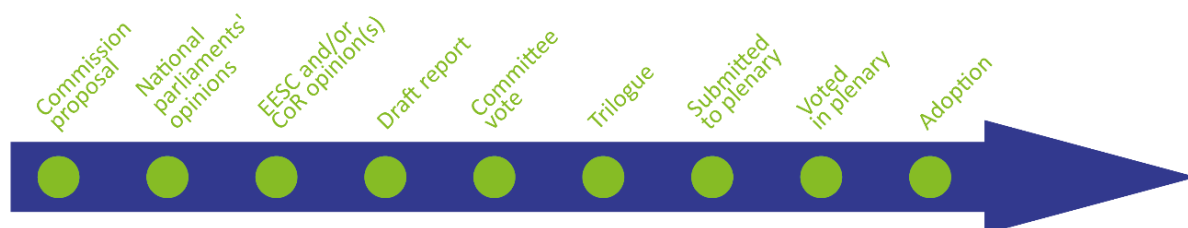
# Protection of workers from asbestos at work

## OVERVIEW

On 28 September 2022, the European Commission proposed a revision of the 2009 Directive on the protection of workers from the risk of exposure to asbestos. On 27 June 2023, after interinstitutional negotiations, the Council and the European Parliament reached a provisional agreement on the proposal. Parliament approved the agreed text on 3 October 2023; the Council followed on 23 October. The final act was signed on 22 November 2023. Member States have until 21 December 2025 to transpose the bulk of the provisions, with the remainder to be in national law by December 2029.

Despite the total ban on the use of asbestos in the EU, exposure to this carcinogenic fibre, which is still present in millions of buildings, kills more than 70 000 people a year in Europe. The new rules significantly lower the current asbestos limits and provide for more modern and accurate technologies to measure exposure levels to asbestos. They also provide for strengthened preventive and protective measures to improve worker protection, such as the adequate use of individual protective and respiratory equipment, the safe cleaning of clothing, a decontamination procedure, and high quality training requirements for workers.

<b>Proposal for a directive of the European Parliament and of the Council amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work</b>		
<i>Committee responsible:</i>	Employment and Social Affairs (EMPL)	COM(2022) 489 28.9.2022
<i>Rapporteur:</i>	Véronique Trillet-Lenoir † (Renew, France)	2022/0298(COD)
<i>Shadow rapporteurs:</i>	Cindy Franssen (EPP, Belgium) Marianne Vind (S&D, Denmark) Sara Matthieu (Greens/EFA, Belgium) Joanna Kopcińska (ECR, Poland) Elena Lizzi (ID, Italy) Nikolaj Villumsen (The Left, Denmark)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Procedure completed.</i>	Directive (EU) 2023/2668 <a href="#">OJ L, 30.11.2023.</a>	



## Introduction

Asbestos is a highly [dangerous](#), cancer-causing substance that is still present in many buildings in the European Union and is responsible for many avoidable deaths. When asbestos fibres are released and inhaled, for instance during renovations, it poses a threat for workers' health.

On 28 September 2022, the Commission presented a comprehensive approach to better protect people and the environment from asbestos and ensure an asbestos-free future. The package includes a communication on working towards an asbestos-free future, tackling asbestos in a comprehensive way, from improved diagnoses and treatment of diseases caused by asbestos, to identification and safe removal and waste treatment of asbestos; and a proposal to amend the Asbestos at Work Directive ([2009/148/EC](#)) to improve workers' protection by significantly lowering the occupational exposure limit (OEL) value for asbestos, given the latest scientific knowledge and technological developments.

## Existing situation

The first EU action aimed at protecting workers from the specific risks of workplace exposure to asbestos dates back to 1983 and the adoption of [Council Directive 83/477/EEC](#). The progressive ban on the use of asbestos in the EU began in 1988 with the prohibition of crocidolite (also called blue asbestos). This directive has been substantially amended several times to cover other asbestos-containing materials until its most recent codified version, Directive 2009/148/EC (the Asbestos at Work Directive). Since [2005](#), all forms of asbestos have been banned in the EU, for goods both produced in and imported into the EU.

The current OEL of 0.1 fibres/cm<sup>3</sup> in the 2009 directive was set in 2003, based on the scientific and technological knowledge available at that time. Some Member States have introduced stricter OELs in their national legislation (Germany, Denmark, France and the Netherlands, according to the Commission's proposal).

## Parliament's starting position

On 20 October 2021, the European Parliament adopted a [legislative-initiative resolution](#) (INL) with recommendations to the Commission on protecting workers from asbestos. Stressing that the safe removal of asbestos is an urgent and difficult task, Parliament reiterated its call for a comprehensive European strategy for the removal of all asbestos in the EU, working across several policy areas and giving top priority to safe working conditions. The resolution was accompanied by recommendations for key elements that should be included in the strategy. On the update of Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work, Parliament called on the Commission to update the exposure limits, which should be lowered to 0.001 fibres/cm<sup>3</sup> instead of the existing OEL for asbestos of 0.1 fibres/cm<sup>3</sup>.

## Preparation of the proposal

This initiative was included in the [Commission's 2022 work programme](#) (and [2023](#) as a priority pending proposal, and in the [Joint Declaration on EU Legislative Priorities for 2023 and 2024](#)). EU citizens also highlighted the importance of revising the Asbestos at Work Directive in the framework of the [Conference on the Future of Europe](#).

The proposed directive is one of the flagship initiatives of the [Europe's Beating Cancer plan](#). It is in line with the [European Pillar of Social Rights](#) (in particular its principle 10 on the right to a healthy, safe and well-adapted work environment) and also builds on the commitment the Commission made in the [EU strategic framework on health and safety at work for 2021-2027](#) to further lower the OEL for asbestos in the revised Asbestos at Work Directive. It also takes into account the [European Green Deal](#) and the [renovation wave strategy](#).

The proposal and the communication also address concerns expressed by the European Parliament in its legislative-initiative resolution of October 2021 (see above).

The proposal was accompanied by an [impact assessment](#). EPRS published an [initial appraisal of the impact assessment](#) on the proposal in January 2023.

## The changes the proposal would bring

The proposal includes a reduction in the exposure limit of asbestos at work to 10 times lower than the current value, based on the latest scientific and technological developments. The proposal aims to amend the Directive on Asbestos at Work (Directive 2009/148/EC) in particular as regards updating the limit value for asbestos, in order to protect workers against risks to their health and safety that can result from exposure to asbestos at work.

Under Directive 2009/148/EC, for all activities in which workers are or may be exposed to dust from asbestos or materials containing asbestos, exposure must be reduced to a minimum and in any case below the fixed binding OEL of 0.1 fibres/cm<sup>3</sup> as an 8-hour time-weighted average (TWA). Under the proposed directive, employers should ensure that no worker would be exposed to a higher airborne concentration of asbestos than 0.01 fibres/cm<sup>3</sup> as an 8-hour TWA. As it is possible to measure an OEL equal to 0.01 fibres/cm<sup>3</sup> with phase-contrast microscope (PCM), no transition period would be needed for the implementation of the revised OEL. Fibre counting would be carried out by PCM in accordance with the method recommended in 1997 by the World Health Organization (WHO)<sup>1</sup> or, wherever possible, any other method giving equivalent or better results, such as a method based on electron microscopy. The proposal also clarifies the obligation on employers to reduce the exposure of workers to dust from asbestos or materials containing asbestos at the place of work to a minimum, with the precision that in any case it must be as low a level as is technically possible, below the limit set by the proposal. Lastly, the obligation on employers to take all necessary steps to identify presumed asbestos containing materials before beginning demolition or maintenance work by obtaining information from the owners of the premises, would be extended to cover other relevant sources of information, such as relevant registers.

## Advisory committees

In its [opinion](#) adopted on 15 December 2022 (rapporteur: Ellen Nygren, Workers – Group II, Sweden), the European Economic and Social Committee welcomes the Commission's ambition to reduce the incidence of cancer, and its specific efforts to minimise exposure to asbestos at work. It recommends that the technical limit value for asbestos exposure should ultimately be set at a lower level than the Commission is currently proposing. It proposes a broad public information campaign on asbestos and its risks. There is also a need for training for all workers at risk of exposure to asbestos, provided in the worker's native language or another language in which they are proficient. It calls on the EU and its Member States to actively promote an international ban on the use of asbestos and protection for workers dealing with existing asbestos during activities such as renovation, demolition and waste management.

The European Committee of the Regions (CoR) adopted its [opinion](#) on 16 March 2023 (rapporteur: Hanna Zdanowska, EPP, Poland). It welcomes the Commission's work on the revision of the Directive on the protection of workers from the risks related to exposure to asbestos at work. It joins the call for a European strategy for asbestos removal, which would ensure an integrated approach of different policies and implement systemic and effective solutions in all Member States on inventory, monitoring, safe disposal, storage and education (training) methods.

## National parliaments

The [deadline](#) for the submission of reasoned opinions on the grounds of subsidiarity was 29 November 2022. No reasoned opinion on the grounds of subsidiarity was submitted within the given deadline.

## Stakeholder views<sup>2</sup>

The deadline for [feedback](#) on the proposal following its adoption was 1 December 2022. In total, 10 [contributions](#) were received.

The [European Federation of Building and Woodworkers](#) (EFBWW) underlined that there is no safe exposure limit to protect workers completely from asbestos and that the Commission also needs to present a full approach to tackling the asbestos disaster in other policy areas (e.g. in the energy renovation of buildings). The [European Trade Union Confederation](#) (ETUC) regrets that the Commission has proposed a limit of only 0.01 fibres/cm<sup>3</sup>, as called for by business associations. The [European Federation of Public Service Unions](#) (EPSU) said that EPSU would actively engage in this debate, together with the EFBWW, to lower the limit value alongside the effort of the ETUC. In a [joint press release](#) published on 26 April 2023, the EPSU, the EFBWW and the ETUC urged the Member States and the Commission to adapt the Commission's proposal in line with Parliament's more ambitious and holistic approach. On 27 June 2023, the [EFBWW](#) and [ETUC](#) welcomed the agreement reached in trilogue but expressed some disappointment at the length of the transition period chosen to achieve a more ambitious exposure value, the risks being implemented too late to protect those involved in building renovations part of the EU Green Deal. In a statement issued in April 2023, the [European Construction Industry Federation](#) (FIEC) expressed its concerns about the very significant financial impact of the revision on construction companies and their clients. On 5 June 2023, in a [joint press release](#), FIEC and the European Builders Confederation recall that optimal protection conditions for the workforce will only be possible if the limit allows for realistic implementation, monitoring and evaluation by construction companies. The [European Society for Medical Oncology](#) welcomed the inclusion of the 0.001 fibres/cm<sup>3</sup> norm in the EMPL report as this legal limit is of crucial importance for preventing new cancer cases.

## Legislative process

The European Commission adopted its [proposal](#) on 28 September 2022. On 8 December 2022, the Council adopted its [position](#) for negotiations with the European Parliament.

In Parliament, the Committee on Employment and Social Affairs (EMPL), responsible for the file, appointed Véronique Trillet-Lenoir (Renew, France) as rapporteur on 10 November 2022. EMPL adopted its [report](#) on 26 April 2023 with 40 votes in favour, none against and 7 abstentions. It calls on employers to reduce exposure to asbestos fibres to the lowest possible level and below an OEL of 0.001 fibres/cm<sup>3</sup> on an 8-hour average, while aiming to introduce the use of electron microscopy to efficiently detect thinner fibres, often the most carcinogenic. That revised OEL should apply after a transitional period. Until 4 years after the date of entry into force of the proposed directive, a transitional OEL, equal to 0.01 fibres/cm<sup>3</sup> as an 8-hour TWA, would apply, while EU countries would still be able to use the current PCM method. The report targets a harmonised EU approach in detection and prevention of asbestos, bringing the obligation for medical surveillance in line with scientific knowledge. It also sets out a list of means to avoid passive and secondary exposures to asbestos, such as the use of individual protective and respiratory equipment, the safe cleaning of clothing, and a mandatory decontamination procedure. Finally, the report includes a new annex on the minimum requirements for training for workers in specialised asbestos removal undertakings.

The mandate for negotiations was endorsed in plenary on 10 May. Parliament and Council representatives met in May to start trilogue discussions on the proposal. A second trilogue meeting took place on 15 June. On 27 June, the Council and Parliament reached a [provisional agreement](#) on the proposal. According to the agreed text, the OEL will go from 0.1 to 0.01 fibres of asbestos per cm<sup>3</sup> without a transition period. Following a maximum transition period of 6 years, Member States will have to use electron microscopy to detect fibres. They will have to decrease the level to 0.002 fibres of asbestos per cm<sup>3</sup> excluding thin fibres or to 0.01 fibres of asbestos per cm<sup>3</sup> including thin fibres. Under the new rules, undertakings that intend to carry out demolition or asbestos

removal work will be required to obtain permits from national authorities. Employers will also need to take steps to identify materials that could potentially contain asbestos before beginning demolition or maintenance work on premises built before the entry into force of the national asbestos ban. The new rules will also set out a list of ways to avoid exposure, such as the adequate use of individual protective and respiratory equipment, the safe cleaning of clothing, a decontamination procedure, and training requirements for workers. Member States will have to keep a register of all cases of medically diagnosed asbestos-related occupational diseases.

The rapporteur's untimely death on 9 August 2023 came before the text could be formally adopted. In the Council, the Permanent Representatives Committee approved the agreement resulting from interinstitutional negotiations on [19 July](#). In the European Parliament, EMPL approved the provisional agreement on [7 September 2023](#) (42 votes in favour, none against and 2 abstentions). On 3 October, Members [adopted](#) the [agreement](#), with 614 votes in favour, 2 against and 4 abstentions. On 23 October, the [Council](#) gave its final green light to the text.

[Directive \(EU\) 2023/2668](#) of the European Parliament and of the Council was signed on 22 November 2023, and published in the Official Journal of the EU on 30 November 2023. The Directive enters into force on 20 December 2023, and Member States have until 21 December 2025 to transpose it into national law (and until 21 December 2029 for certain provisions).

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Amand-Eeckhout L., [Protecting workers from asbestos](#), EPRS, European Parliament, October 2021.

Tuominen M., [Protection of workers from the risks related to exposure to asbestos at work](#), EPRS, European Parliament, January 2023.

## OTHER SOURCES

European Parliament, [Protection of workers from asbestos](#), Legislative Observatory (OEIL).

European Parliament [resolution](#) of 20 October 2021 with recommendations to the Commission on protecting workers from asbestos ([2019/2182\(INL\)](#)).

## ENDNOTES

- <sup>1</sup> Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1).
- <sup>2</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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